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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1447 of 2006

Dashrath Satappa Vhankade ..Petitioner
V/s.
Local Secretary,
Dayanand Institution, Solapur
& anr. ..Respondents

Mr.S.D.Patil i/by Mr.U.R.Agandsurve for the Petitioner
Mr.Nitin Jamdar for the Respondent No.1

CORAM : B.H.MARLAPALLE,J.
DATED : 17th December, 2007

P.C.

Heard Mr.Agandsurve, the Learned Counsel for the Petitioner who had approached the School Tribunal in Appeal No. 397/2004 and the appeal has been dismissed by the impugned Judgement and order dated 11-11-2005.

2. As per the Petitioner, he holds the qualifications of B.A. B.Ed and Respondent No.1 management had released an advertisement on 29-8-96 for the appointment of an Assistant Teacher in the primary section and against the said appointment he had applied for interview and issued an appointment order dated 25-9-1996. He was discontinued on 30-4-97. In the next

academic year i.e. 1997-98 the Petitioner was not appointed and for the first time he filed Appeal No. 397/2004 after about 7 years. It appears that before he approached the School Tribunal, he had filed the civil suit which was dismissed as not maintainable.

3. The School Tribunal by the impugned Judgement has held that the Petitioner was not appointed within the meaning of Section 5(2) of the MEPS Act, 1977 and his discontinuation on 30-4-97 was not illegal. There is no dispute that when the first advertisement was released on 29-8-96, the post of Assistant Teacher in the primary section was reserved for the schedule tribe category and the petitioner belongs to the schedule caste category. As the suitable candidate from schedule tribe category was not available,the petitioner was appointed w.e.f. 1-10-1996 to 30-4-97 on temporary basis and for a specific period. In the next academic year 1997-98 the Petitioner was not appointed and some other candidate from the open category came to be appointed in the said vacant post, was the allegation made by the petitioner, however, the School Tribunal has recorded a finding that in the year 1997-98 when the advertisement was released on 7-10-97, applications from schedule caste candidates were received and in the selection process,one Mr.

Abhangrao belonging to schedule tribe came to be appointed. It is thus clear that on the availability of ST category candidate in the academic year 1997-98, there was no occassion to issue any fresh appointment order to the petitioner or to continue his employment in the said academic year against the regular post.

4. Thus, the reasoning given by the School Tribunal while dismissing the Petitioner’s plea does not suffer from any errors apparent on the face of record and,therefore, no interference is called for in the impugned Judgement under article 227 of the Constituion. Petition is rejected summarily.

[B.H.MARLAPALLE,J.]